

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JEFFERY DEAN,

Plaintiff,

vs.

ERIC TICE, Superintendent, SCI- Somerset,  
et al.,

Defendants.

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Civil Action No. 3:19-cv-113  
Judge Stephanie L. Haines

**MEMORANDUM ORDER**

This matter was referred to Chief Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrates Act, 28 U.S. C. §636, and Local Civil Rule 72.

This is an action brought by Plaintiff Jeffery Dean, a Pennsylvania Department of Corrections (“DOC”) inmate housed at SCI-Somerset, who alleges that prison officials have unlawfully confiscated or denied him access to a book and fourteen comic books because Defendants have determined that the publications contain “explicit sexual material” or “nudity”, in violation of DOC policy. In his Second Amended Complaint (ECF 34), Plaintiff alleges Defendants’ conduct has violated his First Amendment right to freedom of the press and freedom of expression. Defendants filed a Motion to Dismiss Plaintiff’s Second Amended Complaint (ECF 37), which Plaintiff opposed (ECF 43).

Chief Magistrate Judge Eddy filed a Report and Recommendation on May 13, 2020 at ECF 45 recommending that Defendants’ Motion to Dismiss be granted in part and denied in part. Specifically, the report recommended that the motion be granted as to any claims for monetary damages that Plaintiff sought to bring against Defendants in their capacity as official state actors and that the motion be denied in all other respects. The parties were notified that pursuant to 28

U.S.C. §636 (b), Fed. R. Civ. P. 6(d) and 72(b)(2) and LCvR 72.D.2, Defendants had until May 27, 2020, to file objections because they are electronically registered parties and Plaintiff had until June 1, 2020, to file written objections because he is a non-electronically registered party. No party has filed objections and the time to do so has expired.

After a review of Plaintiff's Second Amended Complaint (ECF 34), Defendants' Motion to Dismiss (ECF 37), Brief in Support of Defendants' Motion to Dismiss (ECF 38), Plaintiff's opposition thereto (ECF 43), the record of this matter, and the Report and Recommendation (ECF 45) under the "reasoned consideration" standard, see *EEOC V. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (standard of review when no timely and specific objections are filed), the following order is entered:

AND NOW, this 5<sup>th</sup> day of June, 2020, for the reasons set forth in the Chief Magistrate Judge's Report and Recommendation (ECF 45), which is adopted in whole as the opinion of the Court, it is ORDERED that Defendants' Motion to Dismiss (ECF 37) is GRANTED as to any claims for monetary damages Plaintiff seeks to bring against Defendants in their official capacities as state actors and DENIED in all other respects.

s/ **Stephanie L. Haines**  
Stephanie L. Haines  
United States District Judge